

DETAILED ACTION

Status of Claims

1. This action is responsive to amendment filed on April 14, 2009. Claims 16-20 were canceled and claims 1-15 remain pending.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-7,14,15, drawn to requesting details, classified in at least class 709, subclass 217.
 - II. Claims 8-13, drawn to network device managing, classified in at least class 709, subclass 223.

The inventions are distinct, each from the other because of the following reasons:

3. During a telephone conversation with John Gorecki (38471) on 4/23/09 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-7,14,15.

Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-13 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Response to Arguments

4. Applicant's arguments, filed 1/14/09, with respect to claims have been fully considered and are persuasive. Examiner appreciates the explanation on pgs 5-6 of remarks which clarified the inventive concept. The previous rejection has been withdrawn. However, upon further

consideration and analysis, a new ground(s) of rejection is made in view of **Minhazuddin et al (US Publication No 20040073641)**.

Claim Rejections - 35 USC § 101

5. Claim(s) 1-7,14,15 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process/method” under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant method claims are neither positively tied to a particular machine or hardware element that accomplishes the claimed method steps, nor do the claims perform transformation of underlying subject matter into a different state or thing. Since neither of these requirements are met, the method claims are not a patent eligible process under 35 USC 101 and are deemed as non-statutory subject matter.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-7,14,15 rejected under 35 U.S.C. 102(e) as being anticipated by Minhazuddin et al (US Publication No 20040073641).**

8. In reference to claim 1, Minhazuddin teaches a method for collecting management information on a communication network, the method comprising the steps of:

obtaining a network technology independent high-level health indicator from a managed network element (paragraph 31);

and if details of the high-level health indicator are required, obtaining at least one of a technology independent intermediate-level health indicator and a technology independent raw health indicator related to the technology independent high-level health indicator from the managed network element (paragraph 36,42,43).

9. In reference to claim 2, Minhazuddin teaches the method of claim 1, wherein the technology independent high-level health indicator provides an indication of the health of the managed network element, and wherein the at least one of the technology independent intermediate-level health indicator and technology independent raw health indicator provide information about the health of an aspect of the managed network element (paragraph 42-43).

10. In reference to claim 3, Minhazuddin teaches the method of claim 1, wherein a value of the technology independent high-level health indicator is determined from a plurality of raw health indicators (paragraph 51).

11. In reference to claim 4, Minhazuddin teaches the method of claim 3, wherein the value of the technology independent high-level health indicator is further determined from values of a plurality of intermediate-level health indicators (paragraph 51).

12. In reference to claim 5, Minhazuddin teaches the method of claim 3, wherein the raw health indicators are defined independent of available measurements on the managed network

elements, but are computed from measurements on the managed network elements (paragraph 42-43).

13. In reference to claim 6, Minhazuddin teaches the method of claim 5, wherein the raw health indicators are computed from at least one of computed measurements and raw measurements made by the managed network element, the computed measurements and raw measurements being selected to compute the raw health indicator (paragraph 42,51).

14. In reference to claim 7, Minhazuddin teaches the method of claim 1, wherein at least one of the technology independent intermediate-level and raw health indicators are maintained by the managed network element and provided on demand to a management station (paragraph 42).

15. In reference to claims 14,15, these are minor variations of that correspond to the method claims of claims 1-7 above. Therefore, claims 14,15 are rejected based upon the same rationale as given for claims 1-7 above.

Conclusion

16. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

17. Applicant may not introduce any new matter to the claims or to the specification. For any subsequent response that contains new/amended claims, Applicant is required to cite its corresponding support in the specification. (See MPEP chapter 2163.03 section (I.) and chapter 2163.04 section (I.) and chapter 2163.06)

18. In formulating a response/amendment, Applicant is encouraged to take into consideration the prior art made of record but not relied upon, as it is considered pertinent to applicant's disclosure. See attached Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Primary Examiner, Art Unit 2457

April 24, 2009